

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 JONATHAN ESCOBAR,

4 Plaintiff

Case No. 2:21-cv-00216-GMN-EJY

**ORDER**

5 v.

6 STATE OF NEVADA,

7 Defendant  
8

9 On February 22, 2021, this Court issued an order directing Plaintiff to file a  
10 complaint and a fully complete application to proceed *in forma pauperis* or pay the full  
11 \$402 filing fee on or before April 23, 2021. The April 23, 2021 deadline has now expired,  
12 and Plaintiff has not filed a complaint or a fully complete application to proceed *in forma*  
13 *pauperis*, paid the full \$402 filing fee, or otherwise responded to the Court's order.

14 District courts have the inherent power to control their dockets and "[i]n the  
15 exercise of that power, they may impose sanctions including, where appropriate . . .  
16 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
17 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure  
18 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
19 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for  
20 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.  
21 1992) (affirming dismissal for failure to comply with an order requiring amendment of  
22 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal  
23 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
24 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming  
25 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
26 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
27 local rules).

28 In determining whether to dismiss an action for lack of prosecution, failure to obey

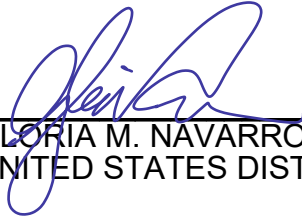
1 a court order, or failure to comply with local rules, the court must consider several factors:  
2 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
3 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
4 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
5 *See Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
6 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

7 Here, the Court finds that the first two factors, the public's interest in expeditiously  
8 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
9 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
10 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
11 in filing a pleading ordered by the court or prosecuting an action. *See Anderson v. Air*  
12 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
13 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
14 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
15 the court's order will result in dismissal satisfies the "consideration of alternatives"  
16 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
17 F.2d at 1424. The Court's order requiring Plaintiff to file a complaint and a fully complete  
18 application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before April  
19 23, 2021 expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff does not file a  
20 complaint and a fully complete application to proceed *in forma pauperis* with all three  
21 documents or pay the full \$402 filing fee for a civil action on or before April 23, 2021, this  
22 case will be subject to dismissal without prejudice for Plaintiff to refile the case with the  
23 Court, under a new case number, when Plaintiff is able to file a complaint and has all  
24 three documents needed to file a complete application to proceed *in forma pauperis* or  
25 pays the the full \$402 filing fee." (ECF No. 4 at 3). Thus, Plaintiff had adequate warning  
26 that dismissal would result from noncompliance with the Court's order to file a complaint  
27 and a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing  
28 fee on or before April 23, 2021.

1 IT IS THEREFORE ORDERED that this action is dismissed without prejudice  
2 based on Plaintiff's failure to file a complaint and a fully complete application to proceed  
3 *in forma pauperis* or pay the full \$402 filing fee in compliance with this Court's order dated  
4 February 22, 2021. (ECF No. 4).

5 IT IS FURTHER ORDERED that the Clerk of Court will close the case and enter  
6 judgment accordingly. No other documents may be filed in this now-closed case.

7 DATED: April 30, 2021

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10 GLORIA M. NAVARRO  
11 UNITED STATES DISTRICT JUDGE  
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